

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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KeySpan Energy Delivery New England))	
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D.T.E. 05-68

**MOTION OF
KEYSPAN ENERGY DELIVERY NEW ENGLAND FOR
PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

Now comes KeySpan Energy Delivery New England ("KeySpan") and hereby request that the Department of Telecommunications and Energy (the "Department") grant protection from public disclosure of certain confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D.

I. BACKGROUND

On February 14, 2006, KeySpan filed its responses to the Department's Second Set of Information Requests. The attachments to responses DTE 2-12 and DTE 2-13 disclose information that is confidential and proprietary. Accordingly, KeySpan hereby requests that Attachment DTE 2-12 (b) and Attachment DTE 2-13 be protected from public disclosure. KeySpan has filed redacted copies deleting references to confidential and proprietary information for the public record. KeySpan has also filed confidential pages in a sealed envelope marked "Confidential."

II. LEGAL STANDARD

Pursuant to G.L. c. 25, § 5D, the Department is authorized to protect from public disclosure "trade secrets, confidential, competitively sensitive or other proprietary

information provided in the course of proceedings.” The Department has developed a three-part standard for assessing requests for protective treatment submitted pursuant to c. 25, § 5D. First, the information for which protection from disclosure is sought must constitute “trade secrets, [or] confidential, competitively sensitive or other proprietary information.” Second, the party seeking protection from disclosure must overcome the statutory presumption that the public is benefited by disclosure of that information by “proving” the need for non-disclosure. Finally, the Department will protect only so much of the information as is necessary to meet the established need. See, e.g., Western Massachusetts Electric Company, D.T.E. 99-56 (1999); Dispatch Communications of New England d/b/a Nextel Communications, Inc., D.P.U. 95-59-B/95-80/95-112/96-13, September 2, 1997 Procedural Order. Appropriate considerations with respect to the public interest issue include an assessment of the interests at stake, the likely harm that would result from public disclosure of information, and the public policy implications of such disclosure. See, e.g., Berkshire Gas Company, D.P.U. 93-187/188/189/190 (1994); Boston Gas Company, D.P.U. 92-259 (1993), Essex County Gas Company, D.P.U. 96-105 (1996).

III. BASIS FOR CONFIDENTIALITY

KeySpan seeks protection from public disclosure certain information contained in Attachment DTE 2-12 (b) and Attachment DTE 2-13 for the following reasons:

1. Attachment DTE 2-12 column 8 discloses fuel switching percentages that are derived from the proprietary model developed for KeySpan and which in part form the basis for KeySpan sales forecasts. As such, the information is both proprietary and competitively sensitive. Public disclosure would cause harm

to the company in that it would allow oil and other competitors free access to valuable and proprietary competitive information developed by the Company for its own use.

2. Similarly, Attachment DTE 2-13 discloses proprietary model inputs of Global Insight that were specifically developed for use by KeySpan and which, in part, form the basis for sales forecasts used by the Company. Again, public disclosure would cause harm to the Company by providing free insight to competitors as to the basis for the Company's sales efforts.

IV. CONCLUSION

For each of the above reasons, disclosure on the public record of the proprietary and competitively sensitive information contained in Attachment DTE 2-12 and DTE 2-13 would be detrimental to the public interest in that it would cause economic harm to KeySpan.

WHEREFORE, KeySpan respectfully requests that the Department grant its Motion for Protective Treatment as stated herein.

Respectfully submitted,

Thomas P. O'Neill, Senior Counsel
KeySpan Energy Delivery New England
52 Second Avenue
Waltham, MA 02451
781-466-5136

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